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8 Attorney for Plaintiff
9 ANNA MARIE SWELEY

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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 FRESNO DIVISION

15 ANNA MARIE SWELEY,

16 Plaintiff,

17 v.

18 MARTIN J. O'MALLEY,
19 Commissioner of Social Security,

20 Defendant.

21 Case No. 1:24-cv-00126-SKO

22 STIPULATION AND UNOPPOSED
23 MOTION FOR THE AWARD AND
24 PAYMENT OF ATTORNEY FEES AND
25 EXPENSES PURSUANT TO THE
26 EQUAL ACCESS TO JUSTICE ACT;
27 ORDER

28 (Doc. 15)

29
30 IT IS HEREBY STIPULATED by and between the parties through their
31 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
32 attorney fees and expenses in the amount of \$1,992.37, under the Equal Access to
33 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This
34 amount represents compensation for all legal services rendered on behalf of Plaintiff by
35 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
36 1920.
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After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Plaintiff's counsel, Francesco Benavides, pursuant to the assignment executed by Plaintiff.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Francesco Benavides, including the Law Offices of Francesco Benavides, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Francesco Benavides to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: April 22, 2024

Law Offices of Francesco Benavides

By: /s/ Francesco Benavides
FRANCESCO P. BENAVIDES
Attorney for Plaintiff

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3 Dated: April 22, 2024
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PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

7 By: Christopher Vieira*
8 CHRISTOPHER VIEIRA
9 Special Assistant U.S. Attorney
10 Attorneys for Defendant
11 (*Permission to use electronic signature
obtained via email on April 19, 2024).

12 **ORDER**
13

14 Based upon the parties' foregoing Stipulation and Unopposed for the Award and
15 Payment of Equal Access to Justice Act Fees and Expenses (Doc. 15), **IT IS**
16 **ORDERED** that fees and expenses in the amount of \$1,992.37 as authorized by 28
17 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the terms of
18 the Stipulation.
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22 IT IS SO ORDERED.
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Dated: April 22, 2024

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE